

## Office of the Secretary, Interior

## §4.107

### §4.104 Preparation, organization, transmittal, and status of appeal file.

(a) *Preparation and transmittal of appeal file.* Following receipt of a notice of appeal, or advice that an appeal has been docketed, the contracting officer shall promptly, and in any event within 30 days, compile and transmit to the Board the appeal file which shall consist of copies of all documents pertinent to the appeal. Within the same time period the contracting officer shall also prepare and transmit a copy of the appeal file to the Department counsel and a copy to the appellant or appellant's counsel. (However, the obligations of this subparagraph are subject to the provisions of paragraph (e) of this section.)

(b) *Composition of appeal file.* The appeal file shall include the following:

(1) The findings of fact and decision from which the appeal is taken, and the letter or letters or other documents of claim in response to which the decision was issued;

(2) The contract, and pertinent plans, drawings, specifications, amendments, and change orders;

(3) All correspondence between the parties pertinent to the appeal; and

(4) Such additional information as may be considered pertinent and material.

(c) *Organization of appeal file.* Documents in the appeal file may be originals, legible facsimiles, or authenticated copies thereof, and shall be arranged in chronological order where practicable, numbered sequentially, tabbed, and indexed to identify the contents of the file, and bound. Any single document consisting of three or more pages shall be numbered sequentially for convenient reference at the hearing and in the preparation of briefs.

(d) *Opportunity for appellant to supplement appeal file.* The appellant shall be afforded the opportunity of supplementing the appeal file with such documentation as may be deemed pertinent to the appeal. The appellant shall be obligated, however, to furnish to Department counsel a copy of any document by which the appeal file is supplemented.

(e) *Burdensome documents.* The Board may waive the requirement of furnishing to the other party copies of bulky, lengthy, or out-of-size documents in the appeal file if a party has shown that doing so would impose an undue burden. At the time a party files with the Board a document as to which such a waiver has been granted, he shall notify the other party that the same or a copy is available for inspection at the offices of the Board or of the party filing the same.

### §4.105 Dismissal for lack of jurisdiction.

Any motion challenging the jurisdiction of the Board shall be filed promptly. Hearing on the motion shall be afforded on application of either party, unless the Board determines that its decision on the motion will be deferred pending hearing on both the merits and the motion. The Board has authority to raise at any time and on its own motion the issue of its jurisdiction to conduct a proceeding and may afford the parties an opportunity to be heard thereon.

### §4.106 Representation and appearances.

(a) *The Appellant.* An individual appellant may appear before the Board in person, a corporation by one of its officers; and a partnership or joint venture by one of its members; or any of these by an attorney at law duly licensed in any state, commonwealth, territory, the District of Columbia, or in a foreign country. An attorney representing an appellant shall file a written notice of appearance with the Board.

(b) *The Government.* Department or Government counsel may, in accordance with their authority, represent the interest of the Government before the Board. They shall file notices of appearance with the Board, and notice thereof will be given appellant or appellant's attorney.

### §4.107 Pleadings.

(a) *Complaint.* Within 30 days after receipt of notice of docketing of the appeal, the appellant shall file with the Board an original and one copy of a complaint setting forth simple, concise, and direct statements of each